

23, 1930, ch. 312, §1, 46 Stat. 376, (3) Aug. 5, 1939, ch. 450, §1, 53 Stat. 1212).

The provision relating to plants in the corresponding section of existing statute is made a separate section.

AMENDMENTS

1954—Act Sept. 3, 1954, provided that plant seedlings, discovered, propagated asexually, and proved to have new characteristics distinct from other known plants are patentable.

CROSS REFERENCES

Patentability of inventions generally, see section 100 et seq. of this title.

Plant Variety Protection, see section 2321 et seq. of Title 7, Agriculture.

§ 162. Description, claim

No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible.

The claim in the specification shall be in formal terms to the plant shown and described.

(July 19, 1952, ch. 950, 66 Stat. 804.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §33, part (R.S. 4888, amended (1) Mar. 3, 1915, ch. 94, §1, 38 Stat. 958, (2) May 23, 1930, ch. 312, §2, 46 Stat. 376).

The first paragraph is the provision in R.S. 4888 (see section 112). The second paragraph is not in the statute but represents the actual practice.

§ 163. Grant

In the case of a plant patent the grant shall be of the right to exclude others from asexually reproducing the plant or selling or using the plant so reproduced.

(July 19, 1952, ch. 950, 66 Stat. 804.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §40, part (R.S. 4884, amended May 23, 1930, ch. 312, §1, 46 Stat. 376).

This provision is from R.S. 4884 (see section 154) amended in language.

CROSS REFERENCES

Patent as grant of right to exclude others from making, using, offering for sale, or selling the invention throughout the United States, see section 154 of this title.

§ 164. Assistance of Department of Agriculture

The President may by Executive order direct the Secretary of Agriculture, in accordance with the requests of the Commissioner, for the purpose of carrying into effect the provisions of this title with respect to plants (1) to furnish available information of the Department of Agriculture, (2) to conduct through the appropriate bureau or division of the Department research upon special problems, or (3) to detail to the Commissioner officers and employees of the Department.

(July 19, 1952, ch. 950, 66 Stat. 804.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §56a (May 23, 1930, ch. 312, §4, 46 Stat. 376).

Language is changed.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of Agriculture, with cer-

tain exceptions, to Secretary of Agriculture, with power to delegate, see Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Agricultural research on plants, see section 427 of Title 7, Agriculture.

Plant Variety Protection, see chapter 57 of Title 7.

CHAPTER 16—DESIGNS

Sec.

171. Patents for designs.

172. Right of priority.

173. Term of design patent.

§ 171. Patents for designs

Whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for designs, except as otherwise provided.

(July 19, 1952, ch. 950, 66 Stat. 805.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §73 (R.S. 4929, amended (1) May 9, 1902, ch. 783, 32 Stat. 193, (2) Aug. 5, 1939, ch. 450, §1, 53 Stat. 1212; R.S. 4933).

The list of conditions specified in the corresponding section of existing statute is omitted as unnecessary in view of the general inclusion of all conditions applying to other patents. Language is changed.

CROSS REFERENCES

Additional remedy for infringement of design patent, see section 289 of this title.

Patentability of inventions generally, see section 100 et seq. of this title.

Unauthorized use of patented designs, see section 289 of this title.

§ 172. Right of priority

The right of priority provided for by subsections (a) through (d) of section 119 of this title and the time specified in section 102(d) shall be six months in the case of designs. The right of priority provided for by section 119(e) of this title shall not apply to designs.

(July 19, 1952, ch. 950, 66 Stat. 805; Dec. 8, 1994, Pub. L. 103-465, title V, §532(c)(2), 108 Stat. 4987.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §32, part (R.S. 4887, amended (1) Mar. 3, 1903, ch. 1019, §1, 32 Stat. 1225, 1226, (2) June 19, 1936, ch. 594, 49 Stat. 1529, (3) Aug. 5, 1939, ch. 450, §1, 53 Stat. 1212).

This provision is taken from R.S. 4887 (see section 119) and made a separate section.

AMENDMENTS

1994—Pub. L. 103-465 substituted “subsections (a) through (d) of section 119” for “section 119” and inserted at end “The right of priority provided for by section 119(e) of this title shall not apply to designs.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective 6 months after Dec. 8, 1994, and applicable to all patent applications filed in the United States on or after that effective date, with provisions relating to earliest filed pat-

ent application, see section 534(b)(1), (3) of Pub. L. 103-465, set out as a note under section 154 of this title.

§ 173. Term of design patent

Patents for designs shall be granted for the term of fourteen years from the date of grant.

(July 19, 1952, ch. 950, 66 Stat. 805; Aug. 27, 1982, Pub. L. 97-247, § 16, 96 Stat. 321; Dec. 8, 1994, Pub. L. 103-465, title V, § 532(c)(3), 108 Stat. 4987.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 77 (R.S. 4931). Language is changed slightly.

AMENDMENTS

1994—Pub. L. 103-465 inserted “from the date of grant” after “years”.

1982—Pub. L. 97-247 substituted “Patents for designs shall be granted for the term of fourteen years” for “Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant, in his application, elects”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective 6 months after Dec. 8, 1994, and applicable to all patent applications filed in the United States on or after that effective date, with provisions relating to earliest filed patent application, see section 534(b)(1), (3) of Pub. L. 103-465, set out as a note under section 154 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-247 effective Oct. 1, 1982, see section 17(a) of Pub. L. 97-247, set out as a note under section 41 of this title.

CROSS REFERENCES

Term of patent, see section 154 of this title.

CHAPTER 17—SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS IN FOREIGN COUNTRY

Sec.	
181.	Secrecy of certain inventions and withholding of patent.
182.	Abandonment of invention for unauthorized disclosure.
183.	Right of compensation. ¹
184.	Filing of application in foreign country.
185.	Patent barred for filing without license.
186.	Penalty.
187.	Nonapplicability to certain persons.
188.	Rules and regulations, delegation of power.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 368 of this title; title 42 sections 2457, 5908.

§ 181. Secrecy of certain inventions and withholding of patent

Whenever publication or disclosure by the grant of a patent on an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the invention be kept secret and shall withhold the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or disclosure of an invention by the granting of a patent, in which

the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Commissioner and the Commissioner shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the grant of a patent withheld for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

(July 19, 1952, ch. 950, 66 Stat. 805.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 151 (Feb. 1, 1952, ch. 4, § 1, 66 Stat. 3, 4).
Language is changed.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The

¹ So in original. Does not conform to section catchline.